

~~JUDGE PLANT~~
AO 440 (Rev. 7/07) Summons in a Civil Action

UNITED STATES DISTRICT COURT

Southern

District of

New York

MOTOROLA, INC.

SUMMONS IN A CIVIL ACTION

v.

DIGITAL TECHNOLOGY LICENSING LLC

07 CV 10436
CASE NUMBER:

TO: (Name and address of Defendant)

DIGITAL TECHNOLOGY LICENSING LLC
75 Montebello Park
Suffern, NY 10901-3740

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Jon T. Hohenthaler
Kirkland & Ellis LLP
153 East 53rd Street
New York, NY 10022

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

J. MICHAEL McMAHON

NOV 19 2007

CLERK

DATE

(By) DEPUTY CLERK

J. Michael McMahon

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE		
Service of the Summons and complaint was made by me ⁽¹⁾	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served:		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.		
Name of person with whom the summons and complaint were left:		
<input type="checkbox"/> Returned unexecuted:		
<input type="checkbox"/> Other (specify):		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL \$0.00
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____</p> <p>Date _____</p> <p><i>Signature of Server</i></p> <p>_____ <i>Address of Server</i></p>		

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

COURT
COUNTY OF
MOTOROLA, INC.UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKagainst
DIGITAL TECHNOLOGY LICENSING LLCPlaintiff(s)
Defendant(s)

Index No. 07 CV 10436

AFFIDAVIT OF
SERVICE OF SUMMONS
(AND COMPLAINT)

SEE ATTACHED RIDER

STATE OF NEW YORK, COUNTY OF NEW YORK
 party herein, is over 18 years of age and resides at POMONA, NEW YORK
 That on 11/20/07 at 9:51 AM., at 75 MONTEBELLO PARK, SUFFERN, NEW YORK
 deponent served the within summons, and complaint on defendant therein named,
 SEE ATTACHED RIDER

DIGITAL TECHNOLOGY LICENSING LLC

INDIVIDUAL
 1. by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.

CORPORATION
 2. a DOMESTIC corporation, by delivering thereat a true copy of each to PAUL LERNER personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be MANAGING AGENT thereof.

SUITABLE AGE PERSON
 3. by delivering thereat a true copy of each to a person of suitable age and discretion. Said premises is defendant's—actual place of business—dwelling place—usual place of abode—within the state.

AFFIXING TO DOOR, ETC.
 4. by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there

MAILING TO
RESIDENCE
USE WITH 3 OR 4SA. MAILING TO
BUSINESS
USE WITH 3 OR 4SB.

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known residence, at and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State.

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to defendant at defendant's actual place of business, at

in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant.

DESCRIPTION
USE WITH
1, 2, OR 3
 Male White Skin Black Hair White Hair 14-20 Yrs. Under 5' Under 100 Lbs.
 Female Black Skin Brown Hair Balding 21-35 Yrs. 5'0"-5'3" 100-130 Lbs.
 Yellow Skin Blonde Hair Mustache 36-50 Yrs. 5'4"-5'8" 131-160 Lbs.
 Brown Skin Gray Hair Beard 51-65 Yrs. 5'9"-6'0" 161-200 Lbs.
 Red Skin Red Hair Glasses Over 65 Yrs. Over 6' Over 200 Lbs.

Other identifying features:

USE IN
NYC CIVIL CT.

The words "CONSUMER CREDIT TRANSACTION" were prominently displayed at the top of the summons(es) and the additional legend was printed in not less than 12 point bold upper case type on the summons(es) pursuant to 22 NYCRR §208.6(d) and (f).

MILITARY
SERVICE

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. Recipient wore ordinary civilian clothes and no military uniform. The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on
11/20/07

JOHN DICANIO
 Notary Public, State of New York
 No. 01DI4977768
 Qualified in Westchester County
 Commission Expires Feb. 11, 2011

PRINT NAME beneath signature
SETH BOTWINICK

License No. 1216601

INSTRUCTIONS: Check appropriate boxes and fill in blanks. Delete inappropriate italicized language and military service allegation if not applicable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOTOROLA, INC.

X Index No. 07 CV 10436

vs.

Plaintiff,

DIGITAL TECHNOLOGY LICENSING LLC

RIDER TO
AFFIDAVIT OF
SERVICE

Defendants.

X

List Of Documents Served:

- Summons In A Civil Action;
- Complaint For Declaratory Judgment;
- Guidelines For Electronic Case Filing;
- Procedures For Electronic Case Filing;
- 3rd Amended Instructions For Filing An Electronic Case Or Appeal;
- Individual Practices Of Judge Charles L. Brieant;
- Judge Charles L. Brieant's Procedural Hints And Requirements For Trials;
- Individual Practices Of Magistrate Judge George A. Yantthis.